1. The Amendment filed March 5, 2008 has been entered. Claims 1-13 are pending, with claims 6-8 withdrawn from consideration as directed to a non-elected invention.

2. Applicant's election with traverse of Group I, which now includes claims 1-5 and 9-13 in the reply filed on March 5, 2008 is acknowledged. The traversal is on the ground(s) that the subject matter of the non-elected claims would be examined by an examination of the elected claims. This is not found persuasive because non-elected claim 6 is directed to a product defined in product-by-process terms, and is therefore not limited to products made by that process. Non-elected claims 7 and 8 are directed to method of measuring moisture, which is distinct from the reduction method defined in the elected claims, and therefore would also not be examined by an examination of the elected claims.

The requirement is still deemed proper and is therefore made FINAL.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-5 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al. (U.S. Patent 4,231,790) or Chang (U.S. Patent 5,234,491).

The prior art discloses making tantalum or niobium powder by reducing a potassium fluoride salt containing tantalum or niobium in the presence of a diluent salt such as potassium chloride or fluoride. The prior art differs from the claimed invention in that the prior art does not specify the moisture percentage in the respective salts as defined in the instant claims, i.e. does not disclose a moisture percentage if measured at 600 degrees, at 200 degrees, or the difference between moisture percentages at those two temperatures. However, both Hahn and Chang discuss the importance of utilizing salts having very low moisture contents. Note, for instance, Hahn column 3, lines 14-20 and column 5, lines 7-29, or Chang column 5, lines 23-37 and column 7, lines 36-44. These teachings of Hahn or Chang at least suggest that one should employ starting materials in the prior art processes having as little moisture as possible, i.e. a moisture content within the ranges as presently claimed.

Consequently, a prima facie case of obviousness is established between the disclosures of Hahn et al. or Chang and the presently claimed invention.

5. In the response filed March 5, 2008, Applicant argues that the present specification provides data indicating that unexpected results are achieved if one performs the claimed process using salts having a minimal moisture percentage, i.e. percentages as recited in the instant claims. What is missing from Applicant's analysis, however, is any indication that the moisture percentages as claimed are in fact any different from the moisture percentages in the salts employed in the prior art processes. As noted in the rejection, both Chang and Hahn indicate that it is important to minimize

moisture in the initial salts, in order to avoid impurities in the final product (see especially Chang, column 5, lines 23-37); this feature is consistent with what is disclosed in the present specification. It is important to note that the instant claims are directed to a single step of reducing a Ta or Nb salt in a diluent salt, the salts having a limited total moisture content. It does not matter for purposes of the claims what temperature(s) one may have measured the moisture content, or what specific analytical methods may have been used, as long as the actual moisture content present in this single step is within certain limits.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Wyszomierski whose telephone number is (571) 272-1252. The examiner can normally be reached on Monday thru Friday from 8:00 a.m. to 4:30 p.m. Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached on (571) 272-1244. All patent application related correspondence transmitted by facsimile must be directed to the central facsimile number, (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/George Wyszomierski/
Primary Examiner
Art Unit 1793

GPW
June 6, 2008